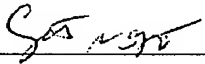
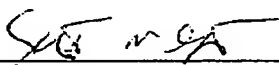


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) CE12487JDP
I hereby certify that this correspondence is being electronically transmitted on the date listed below [(37 CFR 1.8(a)). on: <u>October 8, 2007</u> Signature <u></u> <u>Scott M. Garrett</u> Typed or printed name	Application Number 10/742,691	Filed December 19, 2003
First Named Inventor Eric T. Eaton		
Art Unit 2617		Examiner Mehrpour, Naghmeh
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheets(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>39,988</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34: _____</p> <p><u></u> Signature</p> <p><u>Scott M. Garrett</u> Typed or printed name</p> <p><u>(954) 723-6449</u> Telephone number</p> <p><u>October 8, 2007</u> Date</p> <p>NOTE: Signatures of all the inventors or assignees or record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*</p>		
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.		

(SB/33 (07-05))

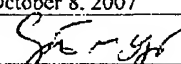
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OCT 09 2007

APPLICANT(S): Eric T. Eaton GROUP ART UNIT: 2617
APPLN. NO.: 10/742,691 EXAMINER: Mehrpour, Naghmeh
FILED: December 19, 2003 Confirmation No. 6220
TITLE: METHOD OF OPERATING A MOBILE COMMUNICATION
DEVICE AND MOBILE COMMUNICATION SYSTEM DURING AN
EMERGENCY SITUATION

CERTIFICATE UNDER 37 CFR 1.8(a)	
I hereby certify that this correspondence is being electronically transmitted on the date listed below:	
Date:	October 8, 2007
Signature	
Typed or printed name:	Scott M. Garrett

PRE-APPEAL BRIEF REQUEST FOR REVIEWMail Stop: AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Office Action mailed June 8, 2007 relating to the above-identified application in furtherance of the Notice of Appeal filed on October 8, 2007. Claims 1-17 remain pending in the application. The most recent copy of the claims can be found in Applicants' Amendment of March 20, 2007. In the Office Action, claims 1-7, 10-17 were rejected under 35 U.S.C. 102(e), as anticipated by Esque et al. (US pub 2004/0203622). Claim 8 was rejected under 35 U.S.C. 103(a) as being obvious in view of Esque et al. Claim 9 was rejected under 35 U.S.C. 103(a) as being obvious in view of Esque et al. and in further view of Raith (US pat. 6,633,754).

Summary of The Claimed Invention

The invention is a system and method for allowing people in an area served by a communications system and affected by some widespread emergency to contact others, thereby letting those other people know their status. When an emergency situation occurs, rather than allow normal communication activity in an affected serving cell, where communication resources would be on a "first come, first served" basis and people could tie up communications channels thereby preventing others from getting communications service, the invention causes mobile communication devices in the affected serving cell to change operating mode where only limited status information may be communicated.

Upon the occurrence of some emergency situation, an emergency message is broadcast by the communication system, as described in the specification, for example, at page 3, lines 22-23; page 6, lines 14-16; and page 9, line 23 to page 10, line 4. Thus, the first element of claim 1, for example is:

"receiving, at the mobile communication device, from a communication system, an emergency message"

Claim 14 recites the limitation of:

"broadcasting in each of the affected cells an emergency notification message"

The "emergency message" is a message to notify any communication devices in the vicinity of the broadcasting base station of the emergency condition. The communication devices responds by, as claimed in claim 1:

"transitioning the mobile communication device from a regular mode of operation to an emergency mode of operation in response to receiving the emergency message; and

allowing only a positive status message to be transmitted from the mobile communication device while in the emergency mode of operation."

Thus, in the embodiment of claim 1, the communication device responds to the emergency message by changing its mode of operation from a normal mode to an emergency mode. In the emergency mode, the communication device can only access limited communication resources from the serving cell, as described in the specification at page 4, lines 1-4, and 9-11; page 7, lines 12-16; and page 8, lines 17-2, for example.

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Claim 14 recites, in response to broadcasting the emergency message, providing communication service to subscribers operating in an emergency mode, or are known emergency responders.

Claims 1-7, 10-17 were rejected under 35 102(e) over Esque (pub. no. 2004/0202622).

Esque shows an automatic notification of personal emergency contacts from a mobile communication device. The invention and teachings in Esque pertain exclusively to operation at the mobile communication device, as stated, for example, at section 0012, where Esque states "implementation of the present invention does not require any modifications to the wireless network." The invention in Esque is summarized in section 0011, where it state that, upon the entry of an emergency input, automatically begins notifying contacts in the devices contact list that have been designated as emergency contacts. The contacting may be performed in a variety of ways, and multiple way to a given contact. Section 0025 provides more detail; the emergency input is, for example, dialing "9-1-1". Upon completion of the 911 call, the device then commences contacting the designated emergency contacts of the device's contact list in a prescribed manner. Section 0026 indicates that an emergency code may be used, rather than calling 911, to activate the automatic calling.

With regard to claim 1, the Rejection contends Esque shows Applicant's claim limitation of receiving the emergency message broadcast by the communication system, and points to section 0025. However, as discussed, Esque specifically states the operation of the invention in Esque is independent of the communication network. The emergency input in Esque is not a message received from the network, it is an input provided by the user of the device, such as dialing 911 or some other designated code sequence, as stated in sections 0025 and 0026. Applicant finds no mention elsewhere in Esque of receiving an emergency message from the network. Applicant notes that claim 14 contains a similar limitation, as does amended claim 17. Thus, Applicant respectfully contends Esque does not show this particular limitation of claims 1, 14, and 17.

Claim 1 further recites transitioning the mobile communication device from a normal mode to an emergency mode "*in response to receiving the emergency message.*" Although Esque does, essentially, result in the device operating in an "emergency mode" since it commences automatically calling emergency contacts, the emergency mode is not performed in response to receiving an emergency message from the network. It is response to an input by the

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user. Furthermore, the emergency mode of the claimed invention, as defined by the instant specification, is a mode where normal calling operation is prevented, and only a status message may be transmitted from the mobile communication device. This mode of operation is recited in claim 1 in a further limitation of *"allowing only a positive status message to be transmitted from the mobile communication device while in the emergency mode of operation."* The Rejection contends section 0009-0022 of Esque teach this operation. However, Applicant finds this section teaches only the automatic calling of designated emergency contacts. Thus, Applicant respectfully contends Esque does not show these limitation of Applicant's claim 1. Therefore, Applicant believes claim 1 is allowable over Esque. Applicant further, therefore, contends claims 2-13, which depend from claim 1, are likewise allowable.

Claim 14 was rejected under Esque along with claim 1. However, although it has limitation in common with claim 1, claim 14 has substantially different limitations as well. For example, determining

"determining which of a plurality of serving cells of the mobile communication system are affected cells, the affected cells being serving cells affected by the emergency situation"

Claim 14 is not treated separately in the Rejection, and does not point to any place in Esque where this limitation is taught or shown by Esque. Applicant is unable to find a similar teaching in Esque, and as Applicant has pointed out, Esque deals exclusively with the mobile communication device, not the network. This limitation is implemented in the network. Accordingly, Applicant respectfully contends Esque does not teach or show this limitation as claimed by Applicant. Claim 14 also includes the limitation of broadcasting an emergency message in affected cells. Esque does not teach this limitation. Esque is strictly a user-driven method, and is not triggered nor does it describe broadcast emergency messages. The term "broadcast" should be accorded its ordinary meaning: a signal transmitted simultaneously to a all receivers tuned to the broadcast channel. Esque shows the transmission of messages, but these are generated by the mobile device, and are not broadcast in the ordinary sense of the word.

Claim 14 further claims the limitation of providing communication service only to mobile communication devices operating in the emergency mode and transmitting status message, or to known emergency responders. Since this limitation is something that would be performed by the network or communication system, Applicant contends it is not shown in Esque. Applicant

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likewise does not find a teaching in Esque resembling this claim element. Accordingly, Applicant respectfully contends claim 14 is allowable over Esque.

Claim 15 was rejected under Esque as well. Claim 15 is drawn to a method of operating a communications system. Esque is concerned with operation of a communication device, and explicitly states the communication system operates normally, i.e. in a known manner. Claim 15 concerns receiving a communications request at a base station operating in an area affected by an emergency situation, as recited in the first limitation. Esque does not describe any cells operating under such a condition; rather, the emergency situation in Esque would be characterized as a personal emergency rather than a widespread emergency. In response to receiving the communication request, the communication system processes the request in one of three ways; it allows the request if the request is from an emergency subscriber; or it allows the request if the request is from a mobile communication device operating in an emergency mode and intending to transmit a status message; otherwise it ignores the request. Esque does not show these limitations. Accordingly, Applicant respectfully contends claim 15 is allowable over Esque.

Claim 16 was also rejected under Esque, for reasons similar to the rejection of claim 15. However, claim 16 as amended recites the limitation of broadcasting the emergency message, which, as discussed previously, Applicant believes is not shown in Esque. Furthermore, claim 16 then recites the limitation of receiving a communication request from an emergency subscriber, and subsequently providing normal communication service to the emergency subscriber. Esque does not distinguish between normal subscribers and emergency subscribers, only that a given subscriber may experience an emergency. Esque specifically states, as Applicant has pointed out, that the network does not operate differently when the subscriber is in an emergency mode, as stated in section 0012. Accordingly, Applicant respectfully contends claim 16 is allowable over Esque.

Claim 17 was rejected under Esque, but the Rejection did not particularly discuss claim 17. However, Applicant notes claim 17 recites limitation similar to the limitation recited in claims 1, and 14-16. Accordingly, Applicant likewise respectfully contends claim 17 is allowable over Esque.

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Claim 8 was rejected under 35 USC 103(a) over Esque (pub. no. 2004/0202622).

Claim 9 was rejected under 35 USC 103(a) over Esque (pub. no. 2004/0202622) in view of Raith (US patent 6,633,754).

Applicant notes these claims are dependent from claim 1. Applicant respectfully contends claim 1 is allowable. Accordingly, Applicant likewise respectfully contends claims 8 and 9 are likewise allowable.

Conclusion

In view of the above, Applicants contend that the claims are patentable over the cited prior art references. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

Date: October 8, 2007

By: 

Scott M. Garrett
Attorney of Record
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